

NOTICE OF INTENT

Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.5101, 5103, 5107, 5122 (Log #AQ169).

This proposed rule revises text to clarify the air toxic regulations, to correct some misspelled words, to revise paperwork requirements, and to revise the release reporting requirements during control equipment bypassing events. The rule also delists caprolactam from the Toxic Air Pollutants Supplemental List because EPA delisted this compound from the Clean Air Act Section 112 list of Hazardous Air Pollutants; also, there are no sources in Louisiana reporting caprolactam.

The basis and rationale for this proposed rule is to clarify the intent of the regulations and to reduce some of the reporting and paperwork requirements. The basis and rationale for delisting caprolactam is to mirror the federal regulations.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

A public hearing will be held on February 27, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ169. Such comments must be received no later than March 6, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. You may contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ169.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen
Assistant Secretary

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter A. Applicability, Definitions, and General Provisions

§5101. Applicability

The provisions of this Subchapter apply to the owner or operator of any major source, as defined herein. The provisions of LAC 33:III.5105.A, 5107.A, B, and C, 5111.A.4, and 5113 apply to the owner or operator of any stationary source which was a major source upon promulgation of this Subchapter but which has achieved minor source status through reduction of emissions and reduction of potential to emit. Effective upon promulgation of applicable source category rules in accordance with R.S. 30:2060, the provisions of this Subchapter apply to the owner or operator of any minor source, if specified by such rules. The provisions of this Subchapter do not apply to the consumer use, in a duration and frequency intended by the manufacturer, of products obtained through retail commerce, or to activities conducted on residential property. The provisions of this Subchapter do not apply to the distribution or application of pesticides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1362 (December 1992), LR 23:56 (January 1997), LR 24

§5103. Definitions, Units, and Abbreviations

A. The terms in this Subchapter are used as defined in LAC 33:III.111 except for those terms defined herein as follows:

* * *

[See Prior Text]

Major Source—any stationary source (including all emission points and units of such source located within a contiguous area and under common control) of air pollutants that emits, or has the potential to emit, in the aggregate, 10 tons per year or more of any toxic air pollutant or 25 tons per year or more of any combination of toxic air pollutants listed in Table 51.2.

* * *

[See Prior Text in A.Maximum Achievable Control Technology (MACT) - B.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1362 (December 1992), LR 23:57 (January 1997), LR 24

§5107. Reporting Requirements, Availability of Information, and Public Notice Provisions

* * *

[See Prior Text in A-B.1]

2. Emission Control Bypasses. Except as provided in Subsection B.6 of this Section, for any unauthorized discharge into the atmosphere of a toxic air pollutant as a result of bypassing an emission control device, where the emission control bypass was not the result of an upset, the owner or operator of the source shall notify the Air Quality Division of the bypass by telephone no later than 24 hours after the beginning of the bypass at (504) 765-0219. In the event the Air Quality Division is unable for any reason(s) to receive the notification as required, the owner or operator shall notify the department at (504) 342-1234 within 24 hours after the beginning of the bypass.

* * *

[See Prior Text in B.3-D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:890 (July 1993), amended by the Office of the Secretary, LR 19:1022 (August 1993), repromulgated LR 19:1142 (September 1993), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:58 (January 1997), LR 24

§5112. Tables

Table 51.1 Minimum Emission Rates Toxic Air Pollutants			
CLASS I - Known and Probable Human Carcinogens			
Compounds	Cas No.	Synonyms	Minimum Emission Rate (Pounds/ Year)
* * *			
[See Prior Text in Acrylonitrile -Nickel (and compounds) [1]]			
Nickel (refinery dust) [1]	7440-02-0		25.0
* * *			
[See Prior Text in Propylene Oxide-Vinyl Chloride]			

CLASS II - Suspected Human Carcinogens and Known or Suspected Human Reproductive Toxins			
Compounds	Cas No.	Synonyms	Minimum Emission Rate Pounds/ Year)

[See Prior Text in Acetaldehyde-Trichloroethylene]			
Vinylidene Chloride	75-35-4	1, 1-dichloroethylene	1,500.0
* * *			
[See Prior Text in Xylene (mixed isomers) [9]-Zinc (and compounds) [1]]			

* * *

[See Prior Text in Table 51.1.Class III.Acute and Chronic (Non-Carcinogenic) Toxins-
Table 51.2.Explanatory Note [12]]

Table 51.3 Louisiana Toxic Air Pollutants Supplemental List*			
Compounds	Cas No.	Class	Synonyms
* * *			
[See Prior Text in Acetamide-Bromoform]			
Calcium Cyanamide	156-62-7	III	
Caprolactam	105-60-2	H	Hexahydro-2H-azepin-2-one
Captan	133-06-2	II	
* * *			
[See Prior Text in Carbaryl-1,3-Propane Sultone]			
beta-Propiolactone	57-57-8	II	2-oxetanone
* * *			
[See Prior Text in Propoxur-Vinyl Bromide]			

* * *

[See Prior Text in Explanatory Notes]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1331 (December 1995), amended LR 24

FISCAL AND ECONOMIC IMPACT STATEMENT

FOR ADMINISTRATIVE RULES

LOG #: AQ169

Person

Preparing

Statement: Maria F. Cuadra

Dept.: Environmental Quality

Phone: (504) 765-0133

Office: Air Quality &
Radiation Prot.

Return

Rule Comprehensive Toxic

Address: P.O. Box 82135

Title: Air Pollutant Emission
Control Program

Baton Rouge, LA

70884-2135

LAC 33:III.5101, 5103,
5107 & 5112.

Date Rule

Effective: Upon promulgation

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No implementation costs (savings) from this proposed rule on state or local government are anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on state or local governmental revenue collections from this rulemaking.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No costs and no significant economic benefits on non-governmental groups by this rulemaking are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment from this rulemaking.

Signature of Agency Head or Designee

LEGISLATIVE FISCAL OFFICER OR DESIGNEE

Gus Von Bodungen, Asst. Secretary

Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature

LFO 10-05-92

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This rulemaking proposes the following:

1) Delist caprolactam from LAC 33:III.5112.Table 51.3.

2) Revise text in LAC 33:III.5101, 5103, and 5107:

- In 5101, the requirement to give public notice for permits is eliminated for specified modifications to sources that became minor sources of air toxics after promulgation of the regulations.
- In 5103, the definition of *major source* is revised to clarify which toxic air pollutants are applicable.
- In 5107.B.2, the requirement to report bypasses of control equipment caused by upset conditions is eliminated in this paragraph.

3) Revise Tables 51.1 and 51.3 in LAC 33:III.5112:

- Add Nickel (refinery dust) to Table 51.1.
- Correct spelling of vinylidene chloride and beta-propiolactone in Table 51.1 and 51.3.

- B. Summarize the circumstances which require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.

This rulemaking is proposed to clarify the air toxic regulations, to correct misspelled words, and to revise the release reporting requirements during control equipment bypassing events.

C. Compliance with Act II of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule change will not result in any increase in the expenditure of funds.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

(b) _____ No. If no, provide justification as to why this rule change should be published at this time.

This is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED.

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 97-98	FY 98-99	FY 99-00
PERSONAL SERVICES			
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
TOTAL	0	0	0
MAJOR REPAIR & CONSTR.	0	0	0
POSITIONS (#)	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

This is not applicable.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 97-98	FY 98-99	FY 99-00
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
DEDICATED			
FEDERAL FUNDS			
OTHER (Specify)			
TOTAL	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

There is no expenditure of funds as a result of this proposed rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There is no impact on local governmental units.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

This is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS.

- A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 97-98	FY 98-99	FY 99-00
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
TOTAL	0	0	0

* Specify the particular fund being impacted.

- B. Provide a narrative explanation of each increase or decrease in revenues shown in "A". Describe all data, assumptions, and methods used in calculating these increases or decreases.

This is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

- A. What persons or nongovernmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

No costs and no significant economic benefits for affected persons or nongovernmental groups by this rulemaking is anticipated. However, major sources of air toxic emissions that do not have to report bypassing of control equipment when caused by an upset condition resulting in the release of insignificant amounts of pollutants, may achieve some economic benefit.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule change to these groups.

No impact on receipts and/or income is anticipated.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

No impact on competition and employment in the public and private sectors is anticipated from this proposed rule.